

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

DANNY R. SCARBOROUGH ,	)	
	)	
Plaintiff,	)	
	)	Civil No. 3:05-1051
v.	)	Judge Trauger
	)	
U. S. MARINE CORPS,	)	
	)	
Defendant.	)	

**ORDER**

On May 11, 2006, the Magistrate Judge issued a Report and Recommendation, recommending that this *pro se* case, filed *in forma pauperis*, be dismissed for failure to state a claim on which relief may be granted. (Docket No. 5) The plaintiff has filed timely objections. (Docket No. 6) This court makes a *de novo* determination of any portion of the Magistrate Judge's disposition to which a specific objection is made. Rule 72(b), FED. R. CIV. P.; 28 U.S.C. § 636(b)(1)(C).

The plaintiff argues in his objections that his court martial was illegal. Because the Magistrate Judge made no determination as to whether or not his court martial was illegal, these objections do not go to the Report and Recommendation, and this court will make no ruling upon them.

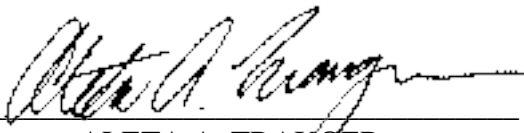
The plaintiff objects to the dismissal of his case based on the statute of limitations, stating: "Since I did not have all of my records from NPRC, I could not know just what was contradicting." (Docket No. 6 at 1) Despite a lengthy analysis of why the statute of limitations mandates a dismissal of this case, the plaintiff's objections do not state what records he had not

received and does not state on what date he received the crucial records. Therefore, his objections do not contradict the findings as to these matters made by the Magistrate Judge in determining the statute of limitations issue. The Magistrate Judge has drawn reasonable inferences from the documents provided with the Complaint, and the plaintiff's objections do not persuade the court that this court should rule otherwise.

For the reasons expressed herein, the plaintiff's objections are **OVERRULED**. The Report and Recommendation is **ACCEPTED** and made the findings of fact and conclusions of law of this court, except for the certification of an appeal. For the reasons expressed therein, it is hereby **ORDERED** that this case is **DISMISSED** under 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim upon which relief may be granted. However, because the court does not find that any appeal would not be taken in good faith, the court declines to accept the part of the Report and Recommendation that recommends that certification under 28 U.S.C. § 1915(a)(3) be denied. The plaintiff should consult the Federal Rules of Appellate Procedure and/or contact the United States Court of Appeals for the Sixth Circuit in Cincinnati, Ohio concerning the timing and nature of any appeal from this court's ruling that he wishes to take.

It is so **ORDERED**.

Enter this 5<sup>th</sup> day of July 2006.

  
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ALETA A. TRAUGER  
United States District Judge